IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.7594 OF 2005

Pramod Pandurang Musale .. Applicant'

Versus

State of Maharashtra .. Respondent

Ms.Vaidehi Mhaispurkar i/b. Ms.Shubhangi Kadam for applicant

Mr.S.S.Tatkare, A.P.P. for State

CORAM : S.C.DHARMADHIKARI, J.

DATE : 5th December 2005.

P.C.

. Applicant who is working in the State Transport department as a mechanic and having

permanent place of residence in Badlapur is arrayed as an accused and apprehending arrest in respect of C.R.No.108 of 2005 registered with Badlapur police station for offences punishable under section 376 of I.P.C. has filed this application.

2. Prosecutrix - complainant in her statement which is recorded on 29th September 2005 alleges that she has left her husband about five years back. Her daughter aged six years is residing with complainant's parents. She has alleged that she was travelling by S.T.Bus from Ulhasnagar to Badlapur and that is how she was introduced to applicant herein. She has alleged that for a period of more than a year, the applicant has been keeping sexual relations with her. She alleges that such relations were allowed to be maintained by her on assurances that applicant would marry her. She has on her own stated that the child was aborted by her.

Both the relations as well as abortion clearly appears prima facie by her consent. The prosecutrix who is a maid servant allegedly is also detained in custody on charge of theft. Considering the prosecution story as appearing from the version of prosecutrix, prima facie it appears that applicant is not guilty of the offences alleged against him. That apart, he has no criminal antecedents and he is presently serving as a mechanic in S.T. department and staying at Badlapur along with his family. There is no apprehension that he will not be available at the trial. Accordingly, following order:-

i) In the event of applicant's arrest in connection with C.R.No.I-108 of 2005 registered with Badlapur police station, the applicant shall be enlarged on bail in the sum of Rs.10,000/-.

ii) The applicant shall report to

Badlapur police station once in a fortnight between 5.00 p.m. to 7.00 p.m. till the charge sheet is filed.

iii) Bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the police officer/ investigating agency. Applicant shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

v) This order will enure to the benefit of the applicant only till charge sheet is filed. Thereafter, he will be free to apply to the appropriate court for appropriate relief.

vi) Application disposed of.

vii) Parties to act on an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)